



Holland N. McTyeire, V
Direct (502) 587-3672 Fax (502) 540-2223 E-mail hnm@gdm.com

Via Hand Delivery

March 29, 2005

Beth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

Re: In The Matter Of: American Cellular Corporation Petition For Designation As A
Competitive Eligible Telecommunications Carrier Pursuant To Section 214(e) Of
The Telecommunications Act of 1996, Case No. 2005-00130

Dear Ms. O'Donnell:

Enclosed herewith please find for filing with the Commission the original and ten (10) copies of ACC's Verified Petition For Designation As An Eligible Telecommunications Carrier In The Commonwealth Of Kentucky. Please note that ACC has served its Verified Petition on all Non-Rural and Rural Telephone Companies in which ACC seeks designation as a competitive ETC as set forth on Exhibit A.

Please do not hesitate to contact the undersigned should you have any questions concerning this filing.

Sincerely,

Holland N. McTyeire, V

HNM/jh

Enclosures

cc: Mark J. Ayotte
Matthew A. Slaven

979261_1

RECEIVED

MAR 29 2005

PUBLIC SERVICE
COMMISSION



Holland N. McTyeire, V
Direct (502) 587-3672 Fax (502) 540-2223 E-mail hnm@gdm.com

RECEIVED

MAR 29 2005

PUBLIC SERVICE
COMMISSION

Via Hand Delivery

March 29, 2005

Beth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

Re: In The Matter Of: American Cellular Corporation Petition For Designation As A
Competitive Eligible Telecommunications Carrier Pursuant To Section 214(e) Of
The Telecommunications Act of 1996, Case No. 2005-00130

Dear Ms. O'Donnell:

Enclosed herewith please find for filing with the Commission the original and ten (10) copies of ACC's Verified Petition For Designation As An Eligible Telecommunications Carrier In The Commonwealth Of Kentucky. Please note that ACC has served its Verified Petition on all Non-Rural and Rural Telephone Companies in which ACC seeks designation as a competitive ETC as set forth on Exhibit A.

Please do not hesitate to contact the undersigned should you have any questions concerning this filing.

Sincerely,

Holland N. McTyeire, V

HNM/jh

Enclosures

cc: Mark J. Ayotte
Matthew A. Slaven

979261_1

**COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

RECEIVED
MAR 29 2005
PUBLIC SERVICE
COMMISSION

In the matter of:

AMERICAN CELLULAR CORPORATION
petition for designation as a competitive
eligible telecommunications carrier pursuant
to Section 214(e) of the Telecommunications
Act of 1996

Case No. 2005-00130

**VERIFIED PETITION FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER IN
THE COMMONWEALTH OF KENTUCKY**

BRIGGS AND MORGAN, P.A.

Mark J. Ayotte
Matthew A. Slaven
2200 First National Bank Building
332 Minnesota Street
Saint Paul, Minnesota 55101
Telephone: (651) 808-6600
Facsimile: (651) 808-6450
E-mail: mayotte@briggs.com
mslaven@briggs.com

**GREENEBAUM DOLL &
MCDONALD PLLC**

Holland N. McTyeire, V
3500 National City Tower
Louisville, KY 40202
Telephone: (502) 587-3672
Facsimile: (502) 540-2223
E-mail: hnm@gdm.com

Its Counsel

TABLE OF CONTENTS

I. INTRODUCTION1

II. BACKGROUND1

III. JURISDICTION3

IV. FEDERAL CRITERIA FOR ETC DESIGNATION.....3

V. ACC SATISFIES EACH OF THE REQUIREMENTS FOR DESIGNATION AS A COMPETITIVE ELIGIBLE TELECOMMUNICATIONS CARRIER5

 A. ACC is a Common Carrier.....5

 B. ACC Provides Each of the Nine Supported Services5

 C. ACC Will Offer and Advertise the Availability of, and Changes for, the Supported Services Throughout Its ETC Service Areas9

 D. ACC Will Provide the Supported Services Throughout Its Designated ETC Service Areas.....9

VI. DESIGNATING ACC AS A COMPETITIVE FEDERAL ETC WILL SERVE THE PUBLIC INTEREST10

 A. Benefits of Increased Competitive Choice11

 C. Impact of ACC’s Designation on the Universal Service Fund15

 D. ACC’s Commitment to Service Quality16

 E. ACC’s Commitment to the Extension of Service17

VII. HIGH-COST CERTIFICATION.....18

VIII. CONCLUSION.....19

I. INTRODUCTION

1. American Cellular Corporation (“ACC”), submits this Petition for designation as an eligible telecommunications carrier (“ETC”) pursuant to 807 KAR 5:001, Section 8, 47 U.S.C. § 214(e) of the Communications Act of 1996 (the “Act”), 47 U.S.C. § 151, *et. seq.*, and Part 54 of the Federal Communications Commission’s (“FCC”) rules and regulations governing universal service (“FCC Rules”).

2. ACC seeks designation as a competitive ETC for purposes of qualifying to receive federal universal service support in the non-rural telephone company wire centers and rural telephone company study areas set forth on the attached **Exhibit A**.

3. Upon designation as a competitive federal ETC, ACC will undertake to offer and advertise the services and functionalities supported by the federal universal service support mechanisms, set forth in 47 C.F.R. § 54.101(a)(1)-(a)(9) (the “Supported Services”), throughout the areas in which ACC is designated as a competitive ETC (“ETC Service Areas”). A map depicting ACC’s FCC-licensed service areas in Kentucky and the incumbent telephone companies’ wire center boundaries is attached as **Exhibit B**.

4. As demonstrated below, ACC meets all of the statutory and regulatory prerequisites for designation as a competitive federal ETC throughout its requested ETC Service Areas. The Commission should, therefore, grant ACC’s Petition without delay.

II. BACKGROUND

5. ACC is an Oklahoma based corporation that maintains its principal place of business at 14201 Wireless Way, Oklahoma City, Oklahoma 73134-2512.

6. ACC is registered to conduct business in the Commonwealth of Kentucky (Organization No. 0576718) and does so under the CellularOne[®] brand name within its FCC-licensed markets.

7. ACC is licensed by the FCC to provide commercial mobile radio service (“CMRS”). Nationally, ACC provides CMRS in portions of Kentucky, Michigan, Minnesota, New York, Ohio, Oklahoma, Pennsylvania, West Virginia and Wisconsin. As of September 30, 2004, ACC provided service to more than 719,000 subscribers. In August 2003, ACC became a wholly owned subsidiary of Dobson Communications, and the consolidated company now serves 1.6 million wireless subscribers in 16 states. ACC has also been designated by the Wisconsin Public Service Commission to serve as a competitive ETC throughout portions of that state.

8. In Kentucky, ACC is currently licensed to provide CMRS in the following FCC-licensed Rural Service Areas (“RSAs”): RSA 4 – Spencer, RSA 5 – Barren, RSA 6 – Madison and RSA 8 - Mason (“Licensed Service Areas”).¹ The telecommunications services provided by ACC in Kentucky include mobile telephony, data, facsimile, 911, voicemail and other features and services.

9. ACC offers digital voice and digital feature services to its customers through its existing Time Division Multiple Access (“TDMA”) digital network. In addition, ACC recently upgraded to a Global System for Mobile Communications (“GSM”) and General Packet Radio Service (“GPRS”) digital network, which enables ACC to offer enhanced data services to its customers.

10. ACC offers its customers high-quality wireless telecommunications services and is committed to providing exceptional customer service as demonstrated by its adoption of the

¹ ACC’s FCC-licensed service areas encompass the following counties in Kentucky: RSA 4 - Anderson, Green, Hardin, Larue, Marion, Mercer, Nelson, Spencer, Taylor, Washington; RSA 5 – Adair, Barren, Clinton, Cumberland, Hart, McCreary, Metcalfe, Monroe, Russell, Wayne; RSA 6 – Boyle, Casey, Garrard, Laurel, Lincoln, Madison, Pulaski, Rockcastle; RSA 8 – Bath, Bracken, Fleming, Lewis, Mason, Menifee, Montgomery, Nicholas, Robertson, Rowan. *Public Notice Report No. CL-92-40, Common Carrier Public Mobile Services Information, Cellular MSA/RSA Markets and Counties, DA 92-109, 7 FCC Red 742 (Jan. 24, 1992).*

Cellular Telecommunications Industry Association (“CTIA”) Consumer Code for Wireless Service, which sets forth certain principles, disclosures and practices for the provision of wireless services.²

III. JURISDICTION

11. As a CMRS provider, ACC’s provision of wireless telecommunications services is licensed and regulated by the FCC. However, under 47 U.S.C. § 214(e)(2), the Commission has the jurisdiction and authority to designate ACC as an ETC within the Commonwealth of Kentucky.³

IV. FEDERAL CRITERIA FOR ETC DESIGNATION

12. To qualify for ETC designation under 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201, the Commission must find that ACC meets the following requirements:

- (a) That the Company is a “common carrier” under federal law;
- (b) That the Company offers or will be able to offer the Supported Services using its own facilities, or a combination of its own facilities and resale of another carrier’s services;
- (c) That the Company will advertise the availability and charges for the Supported Services using media of general distribution; and
- (d) That the Company will provide the Supported Services throughout its designated ETC Service Areas upon reasonable request.

13. Section 54.101(a)(1)-(a)(9) of the FCC’s Rules require that an ETC provide the following services or functionalities:

² See www.ctia.org/wireless_consumers/consumer_code/index.cfm.

³ See *In the Matter of Petition of NPCR, Inc. d/b/a Nextel Partners for Designation as an Eligible Telecommunications Carrier in the State of Kentucky*, Case No. 2003-00143, *Order* (Dec. 16, 2004) (“*Nextel Partners Order*”).

- (a) voice-grade access to the public switched telephone network;
- (b) local usage;
- (c) dual-tone multi-frequency (“DTMF”) signaling or its functional equivalent;
- (d) single-party service or its functional equivalent;
- (e) access to emergency services;
- (f) access to operator services;
- (g) access to interexchange service;
- (h) access to directory assistance;
- (i) toll limitation for qualifying low-income consumers.

47 C.F.R. § 54.101(a)(1)-(a)(9).

14. The Act and the FCC’s Rules define “service area” as a geographic area established by the Commission for purposes of determining universal service obligations and support. In an area served by an incumbent non-rural telephone company, the Commission may designate a competitive ETC for a service area that is smaller than the contours of the incumbent carrier’s service area.⁴

15. In an area served by an incumbent rural telephone company, “service area” is defined as the incumbent carrier’s entire “study area,” unless and until the Commission and FCC cooperatively redefine the service area requirement to something less than the study area.

47 U.S.C. § 214(e)(5), 47 C.F.R. § 207(b).

16. Consistent with the public interest, convenience, and necessity, a competitive ETC may be designated in any area served by a non-rural telephone company so long as the applicant meets the requirements of 47 U.S.C. § 214(e)(1). Before designating a competitive ETC in an area served by a rural telephone company, the Commission must also find that the designation satisfies the “public interest” requirement set forth in 47 U.S.C. § 214(e)(2).

⁴ *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338, ¶ 39 n.114 (rel. Jan. 22, 2004) (“*Virginia Cellular Order*”); *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶¶ 184-185 (rel. May 8, 1997) (“*Universal Service Order*”).

V. **ACC SATISFIES EACH OF THE REQUIREMENTS FOR DESIGNATION AS A COMPETITIVE ELIGIBLE TELECOMMUNICATIONS CARRIER**

17. A telecommunications carrier utilizing any technology, including wireless technology, is eligible to be designated as an ETC provided the carrier meets the requirements established under 47 U.S.C. § 214(e)(1). As demonstrated below, ACC satisfies each of these requirements. ACC operates as a common carrier, provides each of the nine Supported Services established by the FCC, and will offer and advertise the availability of, and charges for, such services throughout its designated ETC Service Areas. Finally, ACC's designation as a competitive ETC is consistent with the public interest, convenience, and necessity and, in areas served by a rural telephone company, will serve the public interest.

A. **ACC is a Common Carrier**

18. The first requirement for ETC designation is that the applicant is a common carrier. 47 U.S.C. § 214(e)(1). A common carrier is defined by the Act as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio” 47 U.S.C. § 153(10). The FCC has determined that wireless telecommunications is a common carrier service. *See* 47 C.F.R. § 20.9(a). Therefore, ACC meets the federal definition of common carrier for purposes of ETC designation.

B. **ACC Provides Each of the Nine Supported Services**

19. The second requirement for ETC designation is that the applicant be capable of and committed to providing each of the nine Supported Services upon designation. 47 U.S.C. § 214(e)(1)(A). ACC is capable of, and currently does provide, the Supported Services over its existing network infrastructure in Kentucky as follows:

(a) **Voice Grade Access**: The FCC has determined that voice grade access to the public switched telephone network means the ability to make and receive calls with a

minimum bandwidth of 300 to 3500 Hertz. 47 C.F.R. § 54.101(a)(1). Through its interconnection agreements with various ILECs – specifically including Bellsouth d/b/a/ South Central Bell, Duo County Telephone Coop., Kentucky Alltel, Inc. Highland Telephone Coop, and South Central Rural Telephone Coop. – ACC’s customers are currently able to make and receive calls on the public switched telephone network within the FCC’s specified frequency range.

(b) Local Usage: “Local usage” means an amount of minutes of use of exchange service, as prescribed by the FCC, provided free of charge to end users. 47 C.F.R. § 54.101(a)(2). An ETC must include an amount of free local usage as part of a universal service offering. 47 C.F.R. 54.101(a)(2). Unlimited local usage is not required of any ETC.⁵ The FCC has determined that a wireless carrier’s inclusion of local usage in a variety of service offerings satisfies the obligation to provide local usage.⁶ ACC will include local usage in all of its universal service offerings within ACC’s defined local service areas as part of its monthly service package. In addition, ACC will comply with any specific local usage requirements adopted by the FCC and required of federal ETCs in the future.

(c) Dual Tone Multi-Frequency Signaling or Its Functional Equivalent: “Dual Tone Multi-Frequency” (“DTMF”) is a method of signaling that facilitates the transportation of call set-up and call detail information. 47 C.F.R. § 54.101(a)(3). The FCC has recognized that “wireless carriers use out-of-band signaling mechanisms [It] is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling.”⁷ ACC currently uses out-

⁵ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Order and Order on Reconsideration*, FCC 03-170, ¶ 14 (rel. July 14, 2003) (“*July 2003 Order*”).

⁶ *Virginia Cellular Order*, ¶ 20

⁷ *Universal Service Order*, ¶ 71.

of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent of DTMF signaling, in accordance with the FCC's requirements.

(d) Single-Party Service or its Functional Equivalent: The FCC has determined that a CMRS provider meets the requirement of offering single party service when it offers a dedicated message path for the length of a user's particular transmission. 47 C.F.R. § 54.101(a)(4). ACC meets the requirement of single-party service by providing a dedicated message path for the length of a user's wireless transmission in all of its service offerings.

(e) Access to Emergency Service: "Access to emergency service" means the ability to reach a public service answering point ("PSAP") by dialing "911." The FCC also requires that a carrier provide access to enhanced 911 or "E911," which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), when the PSAP is capable of receiving such information and the service is requested from the carrier. 47 C.F.R. § 54.101(a)(5). ACC currently provides all of its customers with the ability to access emergency services by dialing "911." ACC has received thirty-five requests from local PSAPs for deployment of Phase II E911 service in Kentucky. ACC expects to deploy Phase II E911 in response to fourteen of these PSAP requests on approximately April 9, 2005. ACC is continuing to work with the twenty-one remaining PSAPs to deploy Phase II E911 in accordance with the federal requirements.

(f) Access to Operator Services: "Access to operator services" means any automatic or live assistance provided to a customer to arrange for the billing or completion, or both, of a telephone call. 47 C.F.R. § 54.101(a)(6). ACC meets this requirement by providing all of its customers with access to operator services provided either by ACC or third parties.

(g) Access to Interexchange Service: “Access to interexchange service” means the ability to make and receive toll or interexchange calls. 47 C.F.R. § 54.101(a)(7). Equal access to interexchange service, *i.e.*, the ability of a customer to access a presubscribed long distance carrier by dialing 1+number, is not required.⁸ ACC currently meets this requirement by providing all of its customers with the ability to make and receive interexchange calls.

(h) Access to Directory Assistance: “Access to directory assistance” means the ability to provide access to a service that makes directory listings available. 47 C.F.R. § 54.101(a)(8). ACC currently meets this requirement by providing all of its customers with access to directory assistance by dialing “411” or “555-1212.”

(i) Toll Limitation Services: An ETC must offer “toll limitation” services to qualifying low-income consumers at no charge. FCC Rule 54.400(d) defines “toll limitation” as either “toll blocking” or “toll control” if a carrier is incapable of providing both, but as both “toll blocking” and “toll control” if a carrier can provide both. Toll blocking allows consumers to elect not to allow the completion of outgoing toll calls. Toll control allows consumers to specify a certain amount of toll usage that may be incurred per month or per billing cycle. 47 C.F.R. § 54.500(b)-(c). ACC is not, at this time, capable of providing toll control. However, ACC is capable of providing toll blocking and provides toll blocking to Lifeline customers in other states in which the Company has been designated an ETC consistent with the FCC’s rules. ACC will utilize its existing toll-blocking technology to provide the service to its Lifeline customers in the ETC Service Areas, at no charge, as part of its service offerings.

⁸ *July 2003 Order*, ¶¶ 14-15; *Universal Service Order*, ¶ 78.

C. ACC Will Offer and Advertise the Availability of, and Charges for, the Supported Services Throughout Its ETC Service Areas

20. The third requirement for ETC designation is that an applicant advertise the availability of, and charges for, the Supported Services using media of general distribution. 47 U.S.C. § 214(e)(1)(B).

21. ACC currently offers and advertises its wireless telecommunications services to customers in Kentucky using media of general distribution, including radio, television, billboard, print advertising, and the Internet at www.celloneusa.com. ACC also maintains various retail store locations and sales agents throughout its Licensed Service Areas, which provide an additional source of advertising.

22. As a federal ETC, ACC will advertise the availability of its service offerings and the corresponding rates for those services throughout its ETC Service Areas through media of general distribution. ACC's advertisements of its service offerings will be part of and integrated into its current advertising for its existing array of services and offerings in a manner that fully complies with federal requirements, and ACC commits to such advertisements in the future.

D. ACC Will Provide the Supported Services Throughout Its Designated ETC Service Areas

23. Consistent with the obligations of a competitive federal ETC, ACC commits to provide the Supported Services to any customer within its designated ETC Service Areas upon reasonable request. Further, ACC will provide Lifeline and Link Up assistance to qualified, low-income consumers consistent with the requirements of 47 C.F.R. § 54.400, *et seq.*

24. As set forth in **Exhibits A and B** attached hereto, ACC is requesting designation as a competitive ETC only in those areas that are wholly contained within the geographic limits of the Company's licensed Service Areas in Kentucky.⁹

25. To the extent the Commission were to find that the limits of ACC's FCC-licensed Service Area prevents it from providing service throughout a rural telephone company study area, ACC requests redefinition of the study area requirement pursuant to 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207.¹⁰

**VI. DESIGNATING ACC AS A COMPETITIVE FEDERAL ETC
WILL SERVE THE PUBLIC INTEREST**

26. In an area served by a non-rural telephone company, the Commission must find that the designation of a competitive ETC is consistent with the public interest, convenience and necessity. This standard is met where the applicant satisfies the prerequisites of 47 U.S.C. § 214(e)(1) and can offer consumers a competitive alternative to the incumbent carrier. As discussed above, ACC fully satisfies each of the requirements of 47 U.S.C. § 214(e)(1). In addition, ACC's unique service offerings will provide Kentucky consumers with a true

⁹ In the event any non-rural telephone company service area is determined to be served by a rural telephone company, ACC requests that the service area requirement be redefined from the study area to the individual wire center level to facilitate its designation as a competitive ETC in the wire centers identified on Exhibit A.

¹⁰ Redefinition of the service area requirement is not required to designate ACC as a competitive ETC in the Stearns-Whitley and Pine Knot exchanges of Highland Telephone Cooperative, Inc. – KY. Although the two wire centers are included in Highland's Tennessee study area, the Commission may designate ACC in the portion of the study area that is contained within the boundaries of the Commonwealth of Kentucky, and the redefinition procedures set forth in 47 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207 are not applicable. *In the Matter of Federal-State Board on Universal Service, Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Memorandum Opinion and Order*, DA 00-2896, ¶¶ 23-24 n.71 (rel. Dec. 26, 2000); *see also In the Matter of Federal-State Board on Universal Service, Petitions for Reconsideration of Western Wireless Corporation's Designation as an Eligible Telecommunications Carrier on Reconsideration*, CC Docket 96-45, *Order*, FCC 01-311, ¶¶ 7-13 (rel. Oct. 19, 2001).

competitive alternative to the incumbent carriers by increasing customer choice and access to innovative services and new technologies.

27. In an area served by a rural telephone company, the Commission must separately find that the designation of a competitive ETC will also satisfy the “public interest” requirement of 47 U.S.C. § 214(e)(2).

28. In *Virginia Cellular*, the FCC identified five factors to consider in determining whether the designation of a competitive ETC in a rural telephone company’s service area is in the public interest.¹¹ These factors include: (1) the benefits of increased competitive choice, (2) the unique advantage and disadvantages of the competitor’s service offering, (3) the impact of multiple designation on the universal service fund, (4) any commitments made regarding quality of telephone service provided by competing providers, and (5) the competitive ETC’s ability to provide the Support Services throughout the designated service area within a reasonable time frame.¹² As demonstrated below, designating ACC as a competitive ETC in Kentucky is consistent with each of the public interest considerations articulated by the FCC in *Virginia Cellular*.

A. Benefits of Increased Competitive Choice

29. The FCC has repeatedly acknowledged the inherent consumer benefits of increased competition in the telecommunications market. In sum, increased competition drives down prices, improves service quality, and promotes the development of advanced communications services:

We note that an important goal of the Act is to open local telecommunications markets to competition. Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer

¹¹ *Virginia Cellular Order*, ¶ 4.

¹² *Virginia Cellular Order*, ¶ 28; see also *Nextel Partners Order*, p. 7-10.

choice, innovative services, and new technologies. We agree with Western Wireless that competition will result not only in the deployment of new facilities and technologies, but will also provide an incentive to the incumbent rural telephone companies to improve their existing network to remain competitive, resulting in improved service to Wyoming consumers. In addition, we find that the provision of competitive service will facilitate universal service to the benefit of consumers in Wyoming by creating incentives to ensure that quality services are available at “just, reasonable, and affordable rates.”

* * *

We reject the general argument that rural areas are not capable of sustaining competition for universal service support. We do not believe that it is self-evident that rural telephone companies cannot survive competition from wireless providers. Specifically, we find no merit to the contention that designation of an additional ETC in areas served by rural telephone companies will necessarily create incentives to reduce investment in infrastructure, raise rates, or reduce service quality to consumers in rural areas. To the contrary, we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers. . . .¹³

30. Kentucky’s rural consumers should be able to choose their telecommunications provider based on their own needs and not be restricted to the services offered by an incumbent rural telephone company. Designating ACC as a competitive ETC will allow the consumers in its requested ETC Service Areas to choose their provider based on the price, services, service quality, customer service and service availability offered by openly competing companies. In addition, with increased competitive choice Kentucky’s rural consumers can expect lower rates and improved service as competition provides an incentive for the incumbent rural telephone companies to invest in new technologies and additional infrastructure.

B. Unique Advantages of ACC’s Service Offerings

31. The FCC has recognized the specific benefits and advantages of wireless service, including the provision of service to customers who do not have access to wire line service, the

¹³ *In the Matter of the Federal-State Joint Board on Universal Service, Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Memorandum Opinion and Order*, DA 00-2896, ¶¶ 17 & 22 (rel. Dec. 26, 2000) (emphasis added).

mobility of service and the availability of a larger local calling area.¹⁴ The benefits and advantages of wireless service are particularly important in rural and insular areas, where the FCC has found that the mobility and access to emergency services offered by wireless carriers can mitigate the unique risks of geographic isolation.¹⁵

32. The safety benefits associated with mobile wireless service are undisputed. The National Telecommunications Cooperative Association (“NTCA”) – the “preeminent telecommunications industry organization dedicated exclusively to representing and serving the interests of the nation’s small, rural incumbent local exchange carriers” – recently acknowledged the essential safety benefits of wireless service in its 2004 Rural Youth Telecommunications Survey:

An astonishing 86% of survey respondents said they have their own wireless phone, leaving only 14% without. This penetration rate among rural teens, which is significantly higher than estimations for the youth market on a national level, most likely is attributed to the safety and convenience issues associated with life in small towns. While statistics show that the crime rates in small towns typically are lower than those in urban areas, safety still is a major concern due to the spread-out nature of rural communities, the long distances traveled to go to school or sports activities, and the steady decline of payphones in small communities. When a teen becomes stranded with a flat tire on a rural road at night, a personal, mobile communication device is more than a convenience. It is a safety tool. The fear of scenarios such as this provides much of the push behind wireless penetration in rural youth markets. For this reason, a mobile wireless device increasingly is seen as more of a necessity than a luxury in rural America.

* * *

One might think that teens provide the impetus for subscribing to wireless telephone service. However, further investigation reveals that many don’t even have to ask for the phone, but instead are offered the device by their parents, as 60% of survey takers indicated that their parent or guardian pays for the service. Safety issues and the desire to “keep in touch” were the prime motivating factors

¹⁴ *Virginia Cellular Order*, ¶ 29.

¹⁵ *Id.*

behind the parental purchases of wireless service.¹⁶

33. Likewise, NTCA acknowledged the critical importance of rural/urban telecommunications parity to long-term economic development as follows:

Rural America is threatened by a “brain drain” — its young people typically go away to college in larger metropolitan areas, and in many cases, leave behind for good their rural homes to live in urban areas after graduation. This loss of an educated labor force could have a potentially dramatic impact on the future viability of rural America. The ability to offer the same state-of-the-art telecommunications services as are available in non-rural areas could play a significant role in increasing the attractiveness and livability of rural communities.¹⁷

34. Designating ACC as a competitive ETC in its requested ETC Service Areas will provide tangible benefits to consumers, including mobility, increased access to emergency services, and access to innovative services. ACC is well positioned to offer consumers in rural and high-costs areas of Kentucky a true competitive alternative to the incumbents LECs, and the Company is fully committed to providing industry-leading wireless service to its Kentucky customers.

35. ACC has undertaken an aggressive program to improve and upgrade its network facilities to provide cutting edge technology to its subscribers. The Company operates TDMA technology in 100% of its managed network and recently deployed GSM/GPRS technology throughout all of its markets. The Company now offers the most advanced available array of wireless services, utilizing both TDMA and GSM/GPRS and EDGE wireless technologies. The Company continues to lead the way for the telecommunications industry, now focused on developing 3G services that will provide wireless data services at high speeds.

¹⁶ *NTCA 2004 Rural Youth Telecommunications Survey*, p. 2 & 5 (emphasis added). Available at http://www.ntca.org/content_documents/2004RuralYouthTelecommunicationsSurvey.pdf.

¹⁷ *Id.*, p. 1

36. In addition, ACC's service offerings will benefit rural customers in Kentucky who may not have access to wireline telephones and will include a larger local calling area than those of the incumbent LECs. Other benefits and advantages of ACC's service offerings include state-of-the-art network facilities; reduced long-distance rates; competitive pricing; 24-hour customer service; enhanced features, such as voice-mail, caller-ID, call-waiting, and call-forwarding; and high-speed data functions including wireless email and internet access.

37. Designating ACC as a competitive ETC will provide Kentucky consumers in rural and high-cost areas with access to all of the benefits and advantages discussed above and will provide an enhanced ability for consumers to choose their telecommunications provider based on their own needs. Furthermore, all rural consumers will benefit from ACC's use of universal service support to improve and expand its existing network and, thereby, expand the availability and quality of its services.

C. Impact of ACC's Designation on the Universal Service Fund

38. The FCC has acknowledged that USF support provided to competitive ETCs accounts for only a small percentage of the increase in the size of the fund, while disbursements to incumbent carriers continue to substantially increase the size of the fund.¹⁸ Moreover, the FCC has concluded that comparing the impact of any one competitive ETC on the overall fund is, at best, inconclusive.¹⁹

39. In any event, granting ACC's Petition in this case would not result in an appreciable increase in the size of the fund. If the Commission grants ACC's Petition, the Company currently estimates that it would be eligible to receive approximately \$494,630 per

¹⁸ *Virginia Cellular Order*, ¶ 31 n. 98. In fact, in 2003 support provided to competitive ETCs accounted for only 4% of the high cost universal service fund. See <http://www.universalservice.org/hc/download/pdf/HC%20CETC%20%25%20Disburse.pdf>

¹⁹ *Id.*

month in high-cost universal service support. This estimate represents only 0.15% of the total high-cost support available to all ETCs for the first quarter of 2005.²⁰ Therefore, designating ACC as a competitive ETC throughout its requested ETC service area would have only a negligible impact on the federal USF. Indeed, ACC would be eligible to receive far less than support amounts deemed inconsequential by the FCC.²¹

D. ACC's Commitment to Service Quality

40. In *Virginia Cellular*, the FCC determined that a carrier's adoption of the CTIA Code of Conduct for Wireless Service ("CTIA Code") evidences a commitment to quality service that advances the public interest.²² ACC has adopted the CTIA Code and is committed to compliance with CTIA Code in areas where it is seeking designation as a competitive ETC. Moreover, ACC commits to reporting to the Commission the number of consumer complaints per 1,000 handsets or an annual basis. The FCC considers such a commitment to be a strong indicator of a company's commitment to service quality.²³

41. In addition, ACC has made a substantial commitment to providing and maintaining essential telecommunications services in times of emergency. To ensure the availability of service in Kentucky, the Company has developed and implemented a Recovery

²⁰ See Federal Universal Service Support Mechanisms Fund Size Projections for the First Quarter of 2005, Appendix HC 1 (Universal Service Administrative Company, Nov. 2, 2004) (determining total monthly amount of high-cost universal service support available to ETCs to be \$325,634,944). Available at www.universalservice.org/overview/filings/2005/Q1/HC01%20-%20High%20Cost%20Support%20Projected%20by%20State%20by%20Study%20Area%20-%201Q2005.xls.

²¹ *Virginia Cellular Order*, ¶ 31, n. 96 (0.105% increase inconsequential); *In the Matter of Advantage Cellular Systems, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, *Order*, DA 04-3357, ¶ 25, n. 82 (rel. Oct. 22, 2004) (0.419% increase inconsequential); *In the Matter of NPCR, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee, and Virginia*, CC Docket No. 96-45, *Order*, DA 04-2667, ¶ 21, n. 69 (rel. Aug. 25, 2004) (1.88% increase inconsequential).

²² *Virginia Cellular Order*, ¶ 30.

²³ *Id.*

Action Plan for each of its network mobile switching offices and attendant facilities. The Company has also allocated and deployed backup equipment and spares including such things as additional microwave facilities, antennas, battery backups and generators.

42. The emergency recovery planning employed by ACC and its affiliate Dobson Cellular Systems, Inc. has already proved to be invaluable. For example, during the extensive blackout throughout the northeast U.S. in August 2003, the affected networks handled a substantial increase in call volume with little reduction in service despite the loss of commercial power to 300 cell sites.²⁴

E. ACC's Commitment to the Extension of Service

43. The final factor to be considered is the applicant's capability and commitment to meet service requests within a reasonable period of time. In *Virginia Cellular*, the FCC accepted the applicant's specific commitment to follow a multi-step service extension policy to evaluate service requests from an area outside its existing coverage area.²⁵ Virginia Cellular committed to taking the following steps to respond to all reasonable requests for service:

- (1) modifying or replacing the customers equipment to provide service;
- (2) deploying a roof-mounted antenna or other equipment to provide service;
- (3) making adjustments to the nearest cell tower to provide service;
- (4) making adjustments to network or customer facilities to provide service;
- (5) offering resold services from another carrier's facilities to provide service; and
- (6) employing or constructing an additional cell site, cell extender, or repeater.²⁶

44. ACC commits to follow the same procedures approved by the FCC in *Virginia Cellular* to provide service to all requesting customers within the Company's designated

²⁴ See Press Release, *Dobson Communications' Wireless Network Passes the Test; Northeast Power Outage Forces 300 Cellular Sites to Switch to Back-Up Power* (Aug. 15, 2003). Available at www.dobson.net. ACC is licensed to provide service in the affected service areas, including Poughkeepsie Metropolitan Service Area (MSA), Orange County MSA, New York RSA 5 and New York RSA 6.

²⁵ *Virginia Cellular Order*, ¶ 15.

²⁶ *Id.*

ETC Service Areas upon reasonable request. In the event ACC is unable to provide service to a requesting customer, the Company commits to annually report to the Commission the number of unfulfilled service requests it received.

VII. HIGH-COST CERTIFICATION

45. Under the FCC's Rules, states that desire ETCs within their jurisdiction to receive high-cost universal service support must file an annual certification with the Universal Service Administrative Company ("USAC") and the FCC stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.²⁷ Accordingly, ACC requests that the Commission certify ACC's use of support effective as of the date of the Company's ETC designation.

46. In order for ACC to receive high-cost universal service support commencing as of the date of the Company's ETC designation, the Commission may supplement its annual certification by separately certifying ACC's use of such support. The FCC's Rules expressly provide that state commissions may file supplemental certifications for carriers not subject to the State's annual certification, such as those carriers who were not yet designated as ETCs at the time.²⁸ Accordingly, ACC respectfully requests that the Commission supplement its annual certification by separately certifying ACC's use of support and transmitting a letter to the FCC and USAC in the form attached here as **Exhibit C**.

47. In support of ACC's request, the Company hereby certifies that it will utilize all federal high-cost universal service support it receives on or after the date of its designation as a

²⁷ 47 C.F.R. §§ 54.313(a), 54.314(a).

²⁸ 47 C.F.R. §§ 54.313(c), 54.314(c).

competitive ETC only for the provision, maintenance, and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e).

VIII. CONCLUSION

48. Based upon the foregoing, ACC respectfully requests that the Commission designate ACC as a competitive federal ETC for purposes of receiving federal universal service support effective as of the date of the Commission's order.

Respectfully submitted,

Dated: March 29, 2005

**GREENEBAUM DOLL &
MCDONALD PLLC**

By 

Holland N. McTyeire, V
3500 National City Tower
Louisville, KY 40202
Telephone: (502) 589-4200
Facsimile: (502) 587-3695
E-mail: hnm@gdm.com

BRIGGS AND MORGAN, P.A.

Mark J. Ayotte (MN 166315)
Matthew A. Slaven (MN 288226)
2200 First National Bank Building
332 Minnesota Street
Saint Paul, Minnesota 55101
Telephone: (651) 808-6600
Facsimile: (651) 808-6450
E-mail: mayotte@briggs.com
mslaven@briggs.com

CERTIFICATE OF SERVICE

I hereby certify that I have on this 29th day of March, 2005 served a true and correct copy of the foregoing VERIFIED PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE COMMONWEALTH OF KENTUCKY on the following by UPS Overnight Delivery:

Brian Harman
Alltel Kentucky, Inc.
229 Lees Valley Road
Shepherdsville, Kentucky 40165

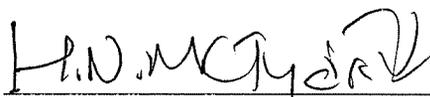
William W. Magruder
Duo County Telephone
Cooperative Corporation, Inc.
1021 W. Cumberland Avenue
Jamestown, Kentucky 42629

F.L. Terry
Highland Telephone Cooperative, Inc.
7840 Morgan County Highway
Sunbright, Tennessee 37872

Steve Mowery
Kentucky Alltel, Inc. – London
230 Lexington Green Circle
Lexington, Kentucky 40588-1650

Forest Wilson
South Central Rural Telephone
Cooperative Corporation, Inc.
1399 Happy Valley Road
Glasgow, Kentucky 42141-1261

Dorothy Chambers
BellSouth Telecommunications, Inc.
601 West Chestnut Street
Louisville, Kentucky 40203



COUNSEL FOR AMERICAN CELLULAR
CORPORATION

**COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

In the matter of:

AMERICAN CELLULAR CORPORATION)
petition for designation as a competitive)
eligible telecommunications carrier pursuant)
to Section 214(e) of the Telecommunications)
Act of 1996)

Case No. 2005-00130

CERTIFICATION OF THOMAS A. COATES

Thomas A. Coates, hereby certifies as follows:

1. I serve as Vice President, Corporate Development for Dobson Communications and each of its affiliates, including American Cellular Corporation.
2. I have reviewed the forgoing Petition and the facts stated therein, of which I have personal knowledge, are true and correct to the best of my present knowledge, information and belief.
3. I certify, under penalty of perjury, that all federal high-cost universal service support will be used by American Cellular Corporation only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to Section 254(e) of the Telecommunications Act of 1996.

Date: March 18, 2005

American Cellular Corporation

By Thomas A. Coates
Thomas A. Coates
Vice President, Corporate Development

Subscribed and sworn to before me this
18 day of March _____, 2005

Mary L. McCalip
Notary Public

